

Center on Race, Poverty, & the Environment

450 GEARY STREET, Suite 500
SAN FRANCISCO, CA 94102

415/346-4179 • fax 415/346-8723

Ralph Santiago Abascal (1934-1997)
Director 1990-1997

Luke W. Cole
Director

Caroline Farrell
Brent Newell
Staff Attorneys

Joe Morales
Community Organizer

May 9, 2003

Public Docket No. OAR-2003-0046
Environmental Protection Agency
EPA Docket Center (EPA/DC)
Air and Radiation Docket
Mail Code 6102T
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Control of Emissions form New Nonroad Diesel Engines: Amendments to the Nonroad Engine Definition, 68 Fed. Reg. 17741 (April 11, 2003); Public Docket No. OAR-2003-0046

Dear Sirs and Mesdames:

The Center on Race, Poverty & the Environment submits these comments on behalf of the Association of Irrigated Residents (AIR). AIR is an unincorporated association that advocates for air quality and environmental health in the San Joaquin Valley of California. Members live in Kern, Tulare, and Stanislaus counties.

AIR objects to EPA's blatant attempt to allow agricultural sources with stationary diesel engines to circumvent the Clean Air Act permit programs under Titles I and V. EPA seeks to classify certain stationary internal combustion engines used in agriculture as nonroad engines. This policy decision is directly contradicted by the plain language of the Clean Air Act.

Section 111 of the Clean Air Act requires EPA to establish performance standards for new stationary sources. For the purposes of § 111, the Clean Air Act defines stationary sources and specifically prohibits EPA from construing Title II of the Clean Air Act to classify stationary internal combustion engines as nonroad engines. "Nothing in subchapter II of this chapter relating to nonroad engines shall be construed to apply to stationary internal combustion engines." 42 U.S.C. § 7411(a)(3).

■ Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice ■

EPA has exceeded its statutory authority in this direct final rule. The Clean Air Act specifically prohibits EPA from applying nonroad engine emissions standards to stationary internal combustion engines. EPA must immediately rescind rule, clearly established to cater to politically powerful agricultural interests in California that seek to avoid permit-based air quality regulation.

AIR thanks EPA for considering these comments and hopes that EPA will, at some point, take the public health crisis in the San Joaquin Valley seriously. Diesel engines spew toxic air contaminants, NO_x, and particulate matter. California must retain its authority to impose stricter emissions controls on stationary diesel engines than those set under Title II.

Sincerely,

Brent Newell